

# State of Wisconsin



1995 Assembly Bill 88

Date of enactment: **March 20, 1996**

Date of publication\*: **April 3, 1996**

## 1995 WISCONSIN ACT 157

AN ACT *to renumber and amend* 968.20 (1m) (a); *to amend* 66.28 (3), 66.28 (4), 968.20 (1m) (b) and 968.20 (3); and *to create* 968.20 (1m) (a) 2. of the statutes; **relating to:** seized dangerous weapons.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 66.28 (3) of the statutes is amended to read:

66.28 (3) Except as provided in s. 968.20 (3), 1st class cities shall dispose of abandoned or unclaimed ~~firearms~~ dangerous weapons or ammunition without a public auction 12 months after taking possession of them if the owner has not requested their return. Disposition procedures shall be established by ordinance or resolution and may include provisions authorizing an attempt to return to the rightful owner any ~~firearms~~ dangerous weapons or ammunition which appear to be stolen or are reported stolen. If enacted, any such provision shall include a presumption that if the ~~firearms~~ dangerous weapons or ammunition appear to be or are reported stolen an attempt will be made to return the ~~firearms~~ dangerous weapons or ammunition to the rightful owner. The ~~firearms~~ dangerous weapons or ammunition shall be subject to sub. (4).

**SECTION 2.** 66.28 (4) of the statutes is amended to read:

66.28 (4) A city, village, town or county may retain or dispose of any abandoned, unclaimed or seized ~~firearm~~ dangerous weapon or ammunition only under s. 968.20.

**SECTION 3.** 968.20 (1m) (a) of the statutes is renumbered 968.20 (1m) (a) (intro.) and amended to read:

968.20 (1m) (a) (intro.) In this subsection, "crime"; 1. "Crime" includes an act committed by a juvenile or incompetent adult which would have been a crime if the act had been committed by a competent adult.

**SECTION 4.** 968.20 (1m) (a) 2. of the statutes is created to read:

968.20 (1m) (a) 2. "Dangerous weapon" has the meaning given in s. 939.22 (10).

**SECTION 5.** 968.20 (1m) (b) of the statutes is amended to read:

968.20 (1m) (b) If the seized property is a ~~firearm~~ dangerous weapon or ammunition, the property shall not be returned to any person who committed a crime involving the use of the ~~firearm~~ dangerous weapon or the ammunition. The property may be returned to the rightful owner under this section if the owner had no prior knowledge of and gave no consent to the commission of the crime. Property which may not be returned to an owner under this subsection shall be disposed of under subs. (3) and (4).

**SECTION 6.** 968.20 (3) of the statutes is amended to read:

968.20 (3) (a) First class cities shall dispose of ~~firearms~~ dangerous weapons or ammunition seized 12 months after taking possession of them if the owner, authorized under sub. (1m), has not requested their return and if the ~~firearm~~ dangerous weapon or ammunition is not required for evidence or use in further investigation

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding. Disposition procedures shall be established by ordinance or resolution and may include provisions authorizing an attempt to return to the rightful owner any ~~firearms~~ dangerous weapons or ammunition which appear to be stolen or are reported stolen. If enacted, any such provision shall include a presumption that if the ~~firearms~~ dangerous weapons or ammunition appear to be or are reported stolen an attempt will be made to return the ~~firearms~~ dangerous weapons or ammunition to the authorized rightful owner. If the return of a seized dangerous weapon other than a firearm is not requested by its rightful owner under sub. (1) and is not returned by the officer under sub. (2), the city shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure under s. 973.075 (4) or authorize a law enforcement agency to retain and use the motor vehicle. If the return of the ~~a~~ seized firearm or ammunition is not requested by its authorized rightful owner under sub. (1) and is not returned by the officer under sub. (2), the seized firearm or ammunition shall be shipped to and become property of the state crime laboratories. A person designated by the department of justice may destroy any material for which the laboratory has no use or arrange for the exchange of material with other public agencies. In lieu of destruction, shoulder weapons for which the laboratories have no use shall be turned over to the department of natural resources for sale and distribution of proceeds under s. 29.06.

(b) Except as provided in par. (a) or sub. (1m) or (4), a city, village, town or county or other custodian of a seized ~~firearm~~ dangerous weapon or ammunition, if the ~~firearm~~ dangerous weapon or ammunition is not required

for evidence or use in further investigation and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding, shall make reasonable efforts to notify all persons who have or may have an authorized rightful interest in the ~~firearm~~ dangerous weapon or ammunition of the application requirements under sub. (1). If, within 30 days after the notice, an application under sub. (1) is not made and the seized ~~firearm~~ dangerous weapon or ammunition is not returned by the officer under sub. (2), the city, village, town or county or other custodian may retain the ~~firearm~~ dangerous weapon or ammunition and authorize its use by a law enforcement agency, except that a ~~firearm~~ dangerous weapon used in the commission of a homicide or a handgun, as defined in s. 175.35 (1) (b), may not be retained. If a dangerous weapon other than a firearm is not so retained, the city, village, town or county or other custodian shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure under s. 973.075 (4). If the ~~a~~ firearm or ammunition is not so retained, the city, village, town or county or other custodian shall ship it to the state crime laboratories and it is then the property of the laboratories. A person designated by the department of justice may destroy any material for which the laboratories have no use or arrange for the exchange of material with other public agencies. In lieu of destruction, shoulder weapons for which the laboratory has no use shall be turned over to the department of natural resources for sale and distribution of proceeds under s. 29.06.

#### **SECTION 7. Initial applicability.**

(1) This act first applies to dangerous weapons seized on the effective date of this subsection.